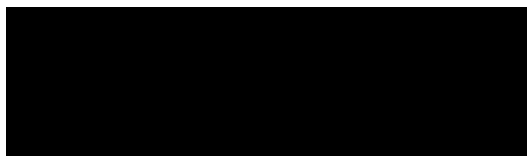




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy



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FILE:



Office: CALIFORNIA SERVICE CENTER

JUL 28 2004
Date:

IN RE:

Applicant:



APPLICATION:

Application for Status as a Temporary Resident pursuant to Section 245A of the
Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if your case was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The termination of temporary resident status by the Director, Western Service Center is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director based the termination on the applicant's criminal record. On appeal, the applicant provides copies of documents that he claims he had furnished earlier. He fails to contest the grounds of termination.

The status of an alien lawfully admitted for temporary residence under section 245A of the Act may be terminated if he is convicted of any felony or three or more misdemeanors in the United States. 8 C.F.R. § 245a.2(u)(1)(iii).

"Felony" means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except when the offense is defined by the state as a misdemeanor, and the sentence actually imposed is one year or less, regardless of the term such alien actually served. Under this exception, for purposes of 8 C.F.R. Part 245a, the crime shall be treated as a misdemeanor. 8 C.F.R. 245a.1(p).

"Misdemeanor" means a crime committed in the United States, either (1) punishable by imprisonment for a term of one year or less, regardless of the term such alien actually served, if any, or (2) a crime treated as a misdemeanor under 8 C.F.R. § 245a.1(p). For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a misdemeanor.

The applicant was convicted of the felony offense of Receiving Stolen Property, section 496.1 of the California Penal Code, on February 28, 1986. He was also convicted of the following misdemeanors under the California Vehicle Code:

1. Driving with Blood Alcohol Content of .10% or More, March 26, 1987;
2. Unlicensed Driver, September 4, 1990.

Although the director stated the applicant had not provided requested dispositions, the dispositions now in the record clearly establish the applicant was convicted of the above charges.

Within the legalization program, no waiver is available to an alien convicted of a felony or three misdemeanors committed in the United States.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.